

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

This document pertains to:

*New Jersey Department of Environmental
Protection, et al. v. Atlantic Richfield Company, et
al.*, Case No. 08-CV-00312

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

**DEFENDANTS' LOCAL RULE 56.1 STATEMENT IN SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT ON PLAINTIFFS' PUBLIC NUISANCE CLAIM FOR
DAMAGES AND TRESPASS CLAIM**

Pursuant to Local Rule 56.1, and in support of their Motion for Summary Judgment on Plaintiffs' Public Nuisance Claim for Damages and Trespass Claim, Defendants¹ submit this statement of material facts as to which there is no genuine issue to be tried:

1. Plaintiffs purport to bring all causes of action in their *parens patriae* capacity and pursuant to the public trust doctrine. *See Decl. of Lisa A. Gerson in Support of Defs.' Motion for Summary Judgment on Plaintiffs' Public Nuisance Claim for Damages and Trespass Claim* ("Gerson Decl."), at Ex. 1 (*Plaintiffs' Responses to defendants' First Set of Interrogatories, Requests for Admissions and Requests for Production Directed to Plaintiffs Regarding Damages, Nos. 10 and 12*).

¹ Atlantic Richfield Company; BP America, Inc.; BP Amoco Chemical Company; BP Amoco Corporation; BP Products North America Inc.; Chevron Corporation; Chevron U.S.A. Inc.; Coastal Eagle Point Oil Company; ConocoPhillips Company; Cumberland Farms, Inc.; Duke Energy Merchants, LLC; El Paso Corporation (n/k/a El Paso LLC); Exxon Mobil Corporation; ExxonMobil Oil Corporation; Equilon Enterprises LLC; Getty Petroleum Marketing Inc.; Getty Properties Corp.; Gulf Oil Limited Partnership; Hess Corporation; Kewanee Industries, Inc.; Lyondell Chemical Company; Mobil Corporation; Motiva Enterprises LLC; Shell Oil Company; Shell Oil Products Company LLC; Shell Trading (US) Company; Sunoco, Inc.; Sunoco, Inc. (R&M); Unocal Corporation.

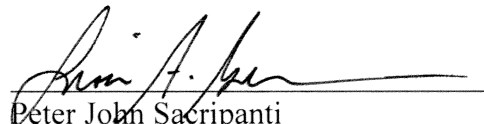
2. Plaintiffs are not the owners of the following Trial Site properties: Skyline Service Center; Valero/APCO; West Windsor Getty; Livingston Exxon; Bloomfield Sunoco; Maple Shade CITGO; Baker's Waldwick Gulf; Shell Ridgewood; 5 Points BP; HP Delta; Tinton Falls Boro. DPW; Colts Neck DPW Garage; Camp Pedricktown WWTP; RC Cape May Holdings Corp.; Scarborough Office Tank; and Tamcrest Country Club. *See* Gerson Decl., at Exs. 4-19.

3. The New Jersey Leonardo State Marina Trial Site and the New Jersey State Prison Bayside Trial Site are owned by the State of New Jersey. *See* Gerson Decl., at Exs. 20-21.

4. The NJDOT W. Orange Maintenance Yard Trial Site is owned by the New Jersey Department of Treasury. *See* Gerson Decl., at Ex. 22.

October 1, 2013
New York, New York

Respectfully submitted,



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Counsel for Defendant Exxon Mobil Corporation and on behalf of Defendants listed in footnote 1